

APPROVED: Meeting No. 45-86

ATTEST: *Carol A. Kachadoorian*

MAYOR AND COUNCIL

ROCKVILLE, MARYLAND

MEETING NO. 35-86

September 8, 1986

The Mayor and Council of Rockville, Maryland, convened in general session in the Council Chamber, Rockville City Hall, Maryland Avenue at Vinson Street, Rockville, Maryland, on Monday, September 8, 1986, at 8:00 p.m.

PRESENT

Mayor Steven Van Grack

Councilman Steve Abrams

Councilman James F. Coyle

Councilman Douglas Duncan

Councilman Peter Hartogensis

The Mayor in the Chair.

In attendance: City Manager Richard V. Robinson, City Clerk Carol A. Kachadoorian, City Attorney Paul Glasgow.

Re: Invocation

Reverend Ken Carlson from the Lutheran Church of the Cross provided the invocation.

Re: City Manager's Report

Mr. Robinson reported the following:

1. The analysis of the investment policies of the Hartford Insurance Company resulted in the finding that Hartford Insurance has no investments in South Africa. In addition, the ITT Corporation, which owns Hartford Insurance is a signatory of the Sullivan principals.

2. The City has been notified by Montgomery County that it is eligible for up to \$413,900 in Community Development Block Grant Funds for fiscal

year 1988. City staff has sent notices out regarding the availability of this funding, soliciting proposals for the use of the funds. A public hearing has been set for September 20, 1986, at 8:30 p.m., to receive proposals for CDBG funding in fiscal year 1988.

3. The City has recently published a brochure called Housing Code Guides in both English and Spanish to reach the Hispanic population in the City. Copies of the brochure in either language are available in the Licenses and Inspections office, the Community Development and Housing Assistance office, or in the Planning Department.

4. The City has issued a request for bids for a traffic signal system along North Washington Street. While the City did not receive any Federal Highway Funds to pay for this project, the City has decided to go forward with the project using City funds. Installation of the signal system is expected no later than February 1, 1987.

5. The leak in the Swim Center locker room and exercise room has been found and is under repair. It is expected that the locker room will reopen on Tuesday, September 9, 1986.

6. The City has been notified by Product Information Network (PIN) that it has been designated as a member of the 1986 PIN Municipal 50. This program is designed to spotlight local government officials who have been instrumental in implementing innovative, cost effective programs that have improved management service delivery to the public. The award is expected to be given at the upcoming ICMA Conference in San Diego, California.

7. The City has prepared a drug abuse brochure which is now available for distribution. Further, staff is looking at an overall program to fight drug

abuse and will have more information available for the Mayor and Council later this fall.

8. The City has received a tenth inning award from the Rockville Baseball Association for the Cities efforts in lighting baseball fields in the City.

The Mayor reported the following:

1. The Mayor urged the registered voters to vote in the Primary Election on Tuesday, September 9, 1986. In addition, Mayor Van Grack complimented staff on its efforts in Grandparents Day held on September 7, 1986, at the Senior Center.

2. The Mayor announced that the recent fire at the Rockville United Methodist Church was believed to have been the work of an arsonist. He urged anyone who has information that could help apprehend and arrest the person responsible for the arson to make that information known to the appropriate officials. He noted that there is a reward program for doing so.

3. Mayor Van Grack noted that he was pleased with the Drug Abuse brochure prepared by City staff. He cited that it was a very good job and should be distributed to all schools. Councilman Abrams suggested that the brochure be converted to a video for airing on the public access chanel.

Re: Citizens Forum

The Mayor opened the meeting to those citizens who wished to address the Mayor and Council:

1. Joe Zetts, 121 Ritchie Parkway, addressed the Mayor and Council regarding the Master Plan reference to the preservations of neighborhoods. He cited this material for the Mayor and Council as he felt it related to problems he has had with noise from the Seven-Eleven store in the Ritchie Shopping Center. Mr. Zetts reviewed a number of letters he had received from the City and had sent to the City regarding the matter. Councilman Coyle

18 suggested that the City take a serious look at staff's work on a change in the zoning regulations in the city, citing that noise at convenience stores is a continuing problem in the city. Councilman Abrams agreed that the problem existed, however, he advised Mr. Zett that even if the City took action, such as changing the current zoning, it would take several years to have effect. Mayor Van Grack relayed that he has visited the Seven-Eleven store at the Ritchie Shopping Center and has verified the problems that Mr. Zetts is referring to. He agreed however, that the problem could not be solved that evening and suggested that a work session on the issue be scheduled for some time in September or October. In preparation for the work session, Councilman Abrams requested information on the zoning classifications that each Seven-Eleven located in the City.

2. Tom Congor, 201 Ritchie Parkway, also addressed the Mayor and Council about the Seven-Eleven at the Ritchie Shopping Center noting that it is a commercial establishment that is located too close to a residential neighborhood. He reiterated Mr. Zetts' belief that there are grounds for closing the Seven-Eleven as stated in the Master Plan.

3. Diane Pompau, 820 East Jefferson Street, informed the Mayor and Council of a problem she is having with trash on her property. She advised the members of the Mayor and Council that she is planning to see an attorney to see what can be done about the situation. She believes the trash is coming from customers of the Seven-Eleven store and states she is reluctant to call the police because she does not feel the police do what they should do. Finally, Ms. Pompau expressed her concern that there would be more serious problems in the future resulting from customers from the Seven-Eleven store.

4. Jim Moone, 504 Potomac Valley Road, expressed appreciation to the Mayor and Council for the report on Investments in South Africa. He provided

the Mayor and Council with a copy of Sullivan Principals and a statement regarding the utility of the Sullivan Principals. Mr. Moone stated that the Association for Concerned Citizens of the Rockville Area (ACCRA) feels that the City should approve some type of legislation on apartheid in South Africa that goes beyond the Sullivan Principals. Councilman Abrams stated he felt that taking such action would be symbolic and therefore would not have meaning. He felt the City could do something through its investment policy. The next level of action the City could take regarding investments in South Africa related to the contracting that it does. Councilman Abrams stated that he was not sure that the City could devise legislation that would continue to allow us to contract, citing current federal regulations. Councilman Duncan asked Mr. Moone to provide a copy of legislation passed in other jurisdictions that is similar to what he is suggesting that the City adopt. Councilman Coyle stated that the City should do something symbolic as an expression of its concerns regarding the apartheid government in South Africa. In response to a request from Mr. Moone for a list of companies with which the City does business, Councilman Abrams suggested that past minutes of Mayor and Council meetings would provide that information. Beyond that, City Manager Robinson confirmed that such a list did not exist and would certainly be very difficult to pull together.

Re: Appointments

Mayor Van Grack, with the confirmation of the Council, made the following appointments:

Alternative Community Service Commission: Vic Grasso - 2 year term as Alternate  
206 Upton Street

Animal Control Board: Phoebe Black - 3 year term  
P.O. Box 658

Cultural Arts Commission: John Tyner - 1 year term as Chairman

Economic Development Council: Douglas Taylor - 1 year term as Chairman

Historic District Commission: Elizabeth Muth - to fill the unexpired term of 106 N. Adams St. Virginia Calantonio.  
Term to expire January, 1989.

Rockville Housing Authority: Phyllis Marcuccio - reappointed to a 5 year term

Public Education Commission: Stuart Greenfeig - 2 year term  
1129 Pipestem Place

The Mayor and Council deferred action on Michael Gewirtz's appointment to the Rockville Housing Authority and Rebeca B. Gilad's appointment to the Human Rights Commission until the meeting of September 22, 1986 and October 6, 1986, respectively. This will enable the two applicants to attend a meeting of the body on which they wish to serve.

Re: Consent Agenda

Councilman Abrams requested that the Approval of Contract to Purchase the Red Barn be removed from the consent agenda for separate consideration.

On motion of Councilman Duncan, duly seconded and unanimously passed, the next seven items on the consent agenda were approved.

Re: Approval of On-Site  
Storm Water Management  
Waiver Request for Lot  
28, Block C., City  
Center - U-347-85

This 0.84 acre site in the Rock Creek Drainage Area is located at #385 Hungerford Drive across from the Rockville Fire Department. The proposed Hotel will have two levels of underground parking.

Infiltration methods of SWM were considered by the applicant. However, the geotechnical report provided indicates there could be a conflict with the natural water table. An on-site detention system was also considered, but this would require pumps to empty it and in a power outage this could cause

problems. Since on-site SWM is not advisable the applicant is requesting a waiver.

The additional 9 cfs of runoff from this site is conveyed to Maryvale Park near where we have a proposed SWM facility planned for construction in 1986.

Since such a compensating structure is expected to be on-line soon, staff recommends that this request be granted and that the City accept a contribution toward the public SWM program for \$16,800 (0.84 gross acres @ \$20,000).

On motion of Councilman Duncan, duly seconded and unanimously passed, the Mayor and Council granted the On-Site SWM Waiver and excepted a contribution of \$16,800.00 towards the public SWM program.

Re: Approval of On-Site  
Storm Water Managment  
Waiver Request for  
Clinton A.M.E. Zion  
Church Parking Lot,  
U-348-85

This 0.18 acre site is located at 814 Westmore Avenue in the Rock Creek drainage area. The runoff from this site is conveyed by a private storm drain system to the public storm drainage system on Moore Drive. From Moore Drive the runoff is conveyed by enclosed storm drain to a stream along Dover Road which goes to the Dover Road SWM facility.

Infiltration methods of SWM were considered, however, the underlying soils are not suitable for acceptable infiltration methods. Detention methods of SWM are not practical for a small lot such as this because of the high cost per cubic foot of runoff controlled.

The public storm drain systems in the area are adequate to convey the additional runoff from this site to the Dover Road North SWM facility. The Dover Road North SWM facility which is currently being enlarged and converted to a wet pond can control the additional runoff from this site and provide water quality for the site. Therefore it is recommended that a waiver be

granted for this site and that a contribution of \$3,600 (0.18 @ \$20,000) be accepted for the City's off-site SWM program.

On motion of Councilman Duncan, duly seconded and unanimously passed, the Mayor and Council granted the On-Site SWM Waiver Request for Clinton A.M.E. Zion Church Parking Lot and accepted a contribution of \$3,600 for the City's off-site SWM program.

Re: Approval of On-Site  
Storm Water Management  
Waiver Request for the  
Unitarian Church of  
Rockville, U-364-86

This 6.3 acre parcel of land located in the Watts Branch Drainage Area currently is improved by a building and parking lot for the Unitarian Church of Rockville. The church plans to enlarge the existing building which will add approximately 0.07 acres of imperviousness to the site.

Consideration was given to on-site methods of SWM. However, due to the small amount of additional runoff that will be generated from this addition, the steep slope of the property, and the fact that the additional imperviousness is being added at three separate locations on the property, on-site methods of SWM are not practical.

The runoff from this site enters a storm drain inlet located at the southeast corner of the property. The runoff is then conveyed by enclosed storm drain system to Woodley Gardens Park where it enters Watts Branch. The site is located adjacent to the proposed Welsh Park SWM facility which is currently under design. Compensating storage can be provided by Welsh Park SWM facility.

Therefore, it is recommended that a waiver be granted and that a contribution of \$1,388 (0.0694 acres x \$20,000 per acre) be accepted for the City's off-site Storm Water Management Fund.



On motion of Councilman Duncan, duly seconded and unanimously passed, the Mayor and Council granted the On-Site Waiver Request of the Unitarian Church of Rockville, U-364-86 and accepted a contribution of \$1,388 for the City's off-site Storm Water Management Fund.

Re: Award of Contract, Bid  
No. 15-87 for Street  
Maintenance

This bid covers the City's annual concrete maintenance and utility street repair program and various other small projects as explained below. Bids were opened at 2:00 p.m. on Tuesday, August 26, 1986, in the Boards and Commissions Room in City Hall. Included in the bid are various items of concrete maintenance, utility street repairs, the C.I.P. roadway spot improvements project and sidewalk installation under three separate projects. Bidding document specified the City's intent to award the bid on the basis of the low bidder of each of the following projects:

- 1) Concrete Maintenance, Utility Street Repairs and Roadway Spot Improvements
- 2) Monroe Street Sidewalk
- 3) Jefferson Street Sidewalk

Ten firms requested bid documents and, of that number three bids were received as follows:

	<u>Project 1</u>	<u>Project 2</u>	<u>Project 3</u>
Nazario Construction Co., Inc Beltsville, Maryland*	\$249,916.50	\$7,410.00	\$22,605.00
Concrete General, Inc., Gaithersburg, Maryland	274,650.00	7,410.00	29,350.00
Romano Concrete Const., Inc. Silver Spring, Maryland	325,477.00	*6,366.00	*21,951.25
Engineer's Estimate	238,000.00	6,000.00	22,000.00
Budget Appropriation	238,000.00	8,000.00	22,000.00

\*Denotes Low Bidder

The low bid for Project #1 is based on contract quantities and unit prices. The staff recommendation is to limit the expenditure to the actual appropriation.

Nazario Construction Company claims an error has been made. Examination of their bid prices would seem to verify the error, since almost identical items in their bid have much higher prices. However, staff has no way of determining exactly what their bid would have been had they not made the error. By applying the supplemental prices submitted with their letter their bid comes to \$270,316.50, still \$4,335.50 lower than 2nd low bidder, Concrete General, Inc. The staff has some concern about adjusting prices under a competitive sealed bid process.

The following action is recommended:

Award the contract to Nazario Construction Company based on their sealed bid unit prices with instructions to staff not to exceed the \$238,000 appropriation. Should the contractor decide he cannot perform at this price then allow withdrawal of his bid, without forfeiture of the 5% bid bond.

Simultaneously, in the event Nazario withdraws, authorize the City Manager to enter into a contract with the second low bidder, Concrete General, Inc., who has satisfactorily performed similar work for the City in the past.

While this approach may cost the City an additional \$4,335.50, it serves two important purposes. The first is that it maintains the integrity of the City's sealed bid process while providing the contractor with a fair alternative without penalty. The second is that it allows staff to proceed with needed concrete maintenance before weather conditions interrupt the maintenance process. Rebidding will consume approximately 5 weeks.

Project #2. Award to Romano Concrete Construction, Inc., in the amount of their bid of \$6,366.00.

Project #3. Award to Romano Concrete Construction Inc., in the amount of their bid of \$21,951.25.

On motion of Councilman Duncan, duly seconded and unanimously passed, Bid No. 15-86 was awarded as recommended by staff.

Re: Award of Contract, Bid  
No. 5-87, Ritchie  
Parkway Bridge  
Consultant

This is the second engineering design contract covering Ritchie Parkway between Seven Locks Road and Rockville Pike. The first, awarded in June 1985, covered the design for the roadway/rights-of-way. The present contract is for design of the bridge over I-270 and a short section (150 feet) of approaches. This latter contract is to be funded approximately 98% by the Maryland and Federal Highway Administrations (MFHWA).

The bridge and approaches project required preparation of consultant selection procedures and contract documentation in very extensive detail in order to satisfy MFHWA requirements. This time consuming process led to the decision to split the design contract between roadway and bridge. This allowed us to proceed with the more time consuming roadway design at an earlier date while awaiting Federal/State approvals on the bridge. Both contracts should be complete and the project ready for construction contract by July 1987. The roadway will be open to traffic by December 1988.

The five firms, their individual rating and price are listed in order of ranking below:

<u>Bank</u>	<u>Score</u>	<u>Price</u>
STV Lyon (Baltimore)	86	\$64,120
Rummel Klepper and Kahl (Baltimore)	79	113,642
Shedladia (Riverdale)	64	130,551

Greenhoren & O'Mara (Greenbelt)	61	134,280
Deleuw-Cather/Transviron (Baltimore)	55	273,960
Engineer's Estimate		\$105,000

It will be noted the highest rated firm, STV Lyon, has an exceptionally low price. This concerned the committee and as a result, the Project Manager was asked to carefully review their proposal and to provide an explanation for the low price. The firms response was acceptable to the committee in demonstrating they were capable and committed to providing the desired services in accordance with the contract schedule and for the price quoted. They are anxious to proceed.

STV Lyon, and the Project Manager in particular, is familiar to the Deputy Director of Public Works, their firm having performed design services for the City on the First Street Railroad Bridge. Their performance on that aspect of the First Street Project was excellent.

Because of the involvement of State and Federal Highway funds this contract is subject to prior approval by both of these agencies prior to execution of a contract by the City.

The City has obviously obtained an excellent proposal from a well qualified firm at a very reasonable price. For these reasons the staff selection committee recommends award to the firm of STV Lyons at their quoted price of \$65,120 subject to prior approval by the State and Federal Highway Administration.

On motion of Councilman Duncan, duly seconded and unanimously passed, Bid No. 5-86, for the selection of the Ritchie Parkway Bridge Consultant was awarded to STV Lyons as recommended by staff.

Re: Award of Contract: Bid  
No. 18-87, South  
Rockville Sewer

This contract provides for C.I.P. project 5D45 which covers the installation of a 12" diameter relief sewer to be installed in City property along the Twinbrook Stream Valley from Halpine Road to an existing outfall in the Twinbrook Recreation Area. This line will provide relief to the existing Vandergrift Avenue system, which is a local collector main being utilized for the dual purpose of sewage transmission. A blockage in such a system may quickly cause backup of sewage in adjacent residences connected to the system at the lower elevations. In addition, the proposed system is required for the purpose of providing additional capacity for development along the Rockville Pike corridor south of Edmonston Drive. It will also accommodate expansion within the WSSC jurisdiction as provided for in a City/WSSC agreement for shared sewer mains. The WSSC has agreed to pay their proportionate share of the cost, which is approximately \$76,864. The project is scheduled for completion by November 24, 1986.

Bids were opened at 3:00 p.m., Thursday, August 28, 1986, in the Boards and Commissions Room in City Hall.

Six firms picked up bid documents and of that number, four bids were received as follows:

Rapp Contracting, Inc., Beltsville, Maryland	\$299,355.00
Calcon Co., Inc., Gaithersburg, Maryland	\$307,200.00
Nazario Construction Co., Inc., Beltsville, MD	\$422,190.00
Tribble Construction, Inc., Manassas, VA	\$465,790.00
City funding Authorization	
(\$199,000 Construction - \$32,000 Engineering)	\$231,000.00
WSSC Funding Authorized per City CIP	
(\$71,000 Construction - 11,000 Engineering)	\$ 82,000.00
Total Authorization	\$313,000.00

The cost is somewhat higher than expected. A significant part of the increase was due to a requirement by the Maryland Department of Natural

Resources to place part of the sewer main in a location away from the stream. It is estimated this increased the cost by \$7,000. Taking this into account, the cost exceeds the engineer's estimate by approximately 7%. This can readily be accounted for by the difficulty of working in the backyards of private residences. The City staff will not utilize the full appropriation for engineering/inspection. Therefore, \$7,700 of the City's engineering appropriation will be applied against the construction cost. The above calculations and adjustments result in a City funding shortfall of approximately \$25,000. This will require a supplemental authorization in that amount.

Rapp Contracting, Inc., has performed similar projects for the City and their work has been satisfactory. It is recommended that the bid be awarded to Rapp Contracting, Inc., in the amount of \$299,355.00. It is further recommended that supplemental funding in the amount of \$25,000 be authorized to increase the City's share of the appropriation to \$256,000.

The WSSC will be billed on a proportionate basis as the work progresses.

On motion of Councilman Duncan, duly seconded and unanimously passed, Bid No. 18-86 for South Rockville Sanitary Sewer Outfall was awarded to Rapp Contracting, Inc., in the amount of \$299,355.00.

Re: Approval of Contract  
Cooperative Purchase with  
Council of Governments  
for #2 Heating Fuel

The invitation for Bid was issued for the purchase of #2 heating fuel with both tank wagon /TW/(7,999 gallons or less) and tank truck /TT/(8,000 gallons or more) deliveries. Bids were solicited on a firm fixed price (FFP) or escalating/de-escalating (ESC) basis. Price adjustments for ESC would be computed using the "average" tank care, F.O.B. Baltimore, computed and

published in the N.Y. Journal of Commerce. The lead jurisdiction would determine the accuracy of price adjustments, and pass the acceptance to each jurisdiction.

The CMTE recommended award on FFP basis for TT delivery and on ESC basis for TW delivery.

A tabulation is on the next page. The prices do not include the Montgomery County Energy Tax of .01332 per gallon which is assessed and for which we are not exempt. This is therefore added to the overall cost on which the award is based.

The City's estimated requirement for this heating season is:

TW delivery to Water Filtration Plant	10,000 gallons
TW delivery to Civic Center Cottage	1,300 gallons
TT delivery to Senior Center	26,250 gallons

Recap of bids:

TT	<u>Green Fuel</u>	<u>Montello</u>	<u>Petron</u>	<u>Phoenix</u>	<u>Piedmont</u>	<u>Steuart</u>
FFP	.4233	.4395	.3962	.4383	.48	.4170
ESC	.3995	.3716	.3943	.4283	.4098	.3756

Awarded to Petron Trading Company, Inc. for FFP of \$.3962. City's estimated requirement is:

26,250 gallons .40952 (with MC Energy Tax) = \$10,749.90

TW	<u>Green Fuel</u>	<u>Phoenix</u>	<u>Piedmont</u>	<u>Steuart</u>
FFP	.4683	.5643	.4800	.4540
ESC	.4445	.5143	.4348	.4122

Awarded to Steuart Petroleum Company for ESC of .4122. City's estimated requirement is:

11,300 gallons .42552 (with MC Energy Tax) = \$4,808.38

This contract permits the consideration of two additional twelve month extensions, by mutual consent. The authority to extend a contract with this mutual consent language is contained in Chapter 5 Laws of Rockville, Section

2-307(a) Cooperative Procurement. This provision, allowing the City Manager to contract with any supplier who offers goods or services to other state or local governments or agencies thereof, supersedes other portions of the ordinance. The contract will delete the mutual consent language.

Staff recommends award in conformance with COG Committee awards to Petron Trading Company, Inc. for TT deliveries which, based on the estimate, would result in an award of \$10,750.00 for the base year; and to Steuart Petroleum Company for TW deliveries which, based on the estimates, would result in an award of \$4,808.00 for the base year. It is also recommended that the City retain the option to extend the contracts for two additional twelve months upon review by the City Manager, such extensions estimated to result in purchases substantially the same as in the base year. This award, therefore, would result in expenditure over three fiscal years of \$46,674.00 (\$15,558.00 each FY).

On motion of Councilman Duncan, duly seconded and unanimously passed, the Mayor and Council Award Contract of Cooperative Purchase with Council of Government for #2 Heating Fuel.

Re: Approval of Contract to  
Purchase the Red Barn

In December of 1985, this office, in accordance with the instructions of the Mayor and Council, initiated the process of acquiring the eight (8) unit apartment building located at 114 Frederick Avenue. Negotiations with the property owner, William J. Bailey, have recently been completed. The attached "Offer of Agreement" has been executed by Mr. Bailey reflecting a proposed purchase price of \$155,250.

The Red Barn Urban Renewal Plan was formally adopted by the Mayor and Council on February 24, 1986. The adoption of the plan culminated an intense



planning period during which it was found that a slum blighted condition exists at 114 Frederick Avenue. The acquisition of the property is the first step in the implementation of the plan. The City will proceed with the relocation of the tenants once title is taken to the property. Later action will include demolition of the building and disposition of the site. It is anticipated that this process will be concluded by Spring of 1987.

Earlier this summer, negotiations with Mr. Bailey had reached a serious impasse. The Mayor and Council subsequently adopted Resolution 23-86 on August 4, 1986 to authorize condemnation proceedings to acquire the property through the court. A negotiated settlement can now be achieved, thus, eliminating the need for condemnation of the property. The Offer of Agreement reflects a purchase price which is considered to be fair to both the City and the property owner.

It is, therefore, recommended that the Mayor and Council approve the attached Offer of Agreement to purchase the "Red Barn" at a purchase price of \$155,250.

On motion of Councilman Abrams, duly seconded and unanimously passed, the Approval of Contract to Purchase the Red Barn was approved. In response to a question from Councilman Abrams, Doug Horne, director of the department of Community Development and Housing Assistance, responded that the purchase price of the Red Barn was the result of negotiations. In addition, the City expects to settle on the property within 90 days and staff can begin interviews with tenants for relocation assistance. However, tenants should not be moved out of the Red Barn before settlement. In response to Councilman Abrams concerns, Paul Glasgow, City Attorney, noted that a clause could be included in the contract that would forbid the current owner from releasing apartments in the Red Barn once they are vacated. Councilman Abrams noted

that it is important to move ahead so that the building can be demolished as soon as possible. In addition, he asked the City Manager to keep the Lincoln Park Citizens Association advised of progress on the project.

Councilman Abrams moved that an additional clause be added to the agreement to the purchase of the Red Barn adding the condition that control over relating the apartments during the time of the contract lie with the City rather than the current owner. This amendment to the original motion passed unanimously. Mayor Van Grack thanked Doug Horne for all of his efforts in concluding the purchase of the Red Barn.

Re: Adoption of Ordinance:  
To amend Chapter 11,  
Section 11-1.02 of the  
"Laws of Rockville",  
entitled "Traffic,  
Vehicles & Transportation", so as to  
restrict and clarify  
the prohibitions of on-  
street truck parking  
and to further provide  
for the issuance of  
special permits for  
truck parking.

Ordinance No. 29-86

On motion of Councilman Duncan, duly seconded and unanimously passed, Ordinance No. 29-86, the full text of which can be found in Ordinance Book No. 12, to amend Chapter 11, Section 11-1.02 of the "Laws of Rockville", entitled "Traffic, Vehicles & Transportation", so as to restrict and clarify the prohibitions of on-street truck parking and to further provide for the issuance of special permits for truck parking was adopted by the Mayor and Council.

Councilman Coyle noted that he was pleased to see adoption of this ordinance. He stated that it was the first problem he heard about after he had been elected and felt that the development of this ordinance represents an excellent process for receiving diverse points of view from the community.

September 8, 1986

In response to a question from Councilman Hartogensis, the City Attorney responded that the concerns of utility companies as expressed to the Mayor and Council were incorporated in the ordinance. In response to a question from Councilman Duncan, City Manager Robinson advised the Mayor and Council that information on the new ordinance would be provided in both the Rockville Report and the commercial media. In addition, he advised the Mayor and Council that notices would be sent to those who had testified on the issue.

RE: Public Hearing on Street  
Closing Abandonment  
Application SCA-51-86  
Congressional South  
Assoc., Limited  
Partnership, Applicant

The Mayor and Council conducted a public hearing on Street Closing and Abandonment Application SCA-51-86, and heard those persons as will be found in the stenographic transcript of the hearing. There being no other person wishing to testify, the Mayor closed the hearing with the record to be held open until the close of business on September 22, 1986.

Re: Decision and  
Instructions to Staff on  
Text Amendment T-74-85,  
Westmont Associates,  
Applicant

On motion of Councilman Duncan, staff was instructed to prepare the necessary legal documentation to approve Text Amendment Application T-74-85, including the modifications recommended by the Planning Department and the Planning Commission, with the exception of the issue of delegation as recommended by the Planning Commission.

Councilman Abrams asked that a work session be scheduled on the proposed Text Amendment, as he is concerned over the lack of documents available to the Mayor and Council this evening. Councilman Duncan requested that a full

packet of information on T-74-85 be included in the brief book when an ordinance to adopt the Text Amendment is placed on the agenda for introduction. Mayor Van Grack suggested that introduction of the ordinance be scheduled for September 15, 1986, and time for a work session be reserved for that date also. Adoption of the Text Amendment could then occur on September 22, 1986.

Re: Resolution to Allow the  
Withdrawal of Text  
Amendment Application,  
T-79-86, Rockville  
Planning Commission  
Applicant

Resolution No. 24-86

On motion of Councilman Hartogensis, duly seconded and unanimously passed, Resolution No. 24-86, the full text of which can be found in Resolution Book No. 8, to allow withdrawal of Text Amendment Application, T-79-86, was approved.

Councilman Hartogensis commended the Planning Commission for all it had done on the issue and stated he feels that the Mayor and Council could fashion a workable text amendment from the materials before them.

Re: Correspondence

The Mayor and Council noted the following items of correspondence:

1. Letter from Mr. Krebbs, Director of Program Open Space, regarding Montrose Park.

Councilman Hartogensis commended staff for the excellent program it put together to receive state funds and in the way it proposed making use of the funds.

2. Letter from Hal Kassoff, Administrator of the State Highway Administration, regarding the construction of Maryland Route 28.

Councilman Coyle asked that a copy of the letter from Glenora Hills be provided to him as well as a copy of the letter from Hal Kassoff be sent to Glenora Hills.

3. Letter from Kenneth Meade, Minister of the Church of Christ at Manor Woods regarding the invocation provided on August 4, 1986.

Mayor Van Grack thanked Kenneth Meade for his letter.

Re: Approval of Minutes

On motion of Councilman Abrams, duly seconded and unanimously passed, the Minutes of April 30, 1986, Meeting No. 17-86 were approved as amended.

On motion of Councilman Hartogensis, duly seconded and unanimously passed, the Minutes of June 2, 1986, Meeting No. 24-86 were approved as amended.

On motion of Councilman Duncan, duly seconded and approved by all those voting, Councilman Hartogensis abstaining, the Minutes of June 25, 1986, Meeting No. 25-86 were approved as amended.

Re: New Business

1. Councilman Hartogensis noted that this year is the 30th anniversary of the City's relationship with its Sister City, Pinneburg, West Germany. He suggested that in honor of this anniversary, the City place some indication on signs welcoming people to the City of Rockville that its Sister City is Pinneburg, West Germany. Mayor Van Grack asked the City Manager to have staff review this request from Councilman Hartogensis.

2. Councilman Abrams asked that staff review for any changes in the ordinance that may be necessary pertaining to parking requirements in shopping centers where parking was taken by Metro users. He noted that this issue was brought to his attention at Drop In on Saturday morning.

3. In response to a question from Councilman Coyle, City Manager Robinson advised the Mayor and Council that the Public Education Forum scheduled with the U.S. Secretary of Education, William Bennett, has been cancelled due to the unavailability of Secretary Bennett.

4. Councilman Coyle asked for information on what the City is doing in response to a letter regarding Watts Branch Parkway.

## Re: Work Session

The Mayor and Council held a Work Session on Text Amendment T-78-86. The work session began at 10:17 p.m. All members of the Mayor and Council were present and were joined by the City Manager, Richard Robinson, City Clerk Carol A. Kachadoorian, City Attorney Paul Glasgow, and Director of Planning J. Mike Davis.

Councilman Duncan suggested that a text amendment that provided for separate zones be considered only if consensus could not be reached on Text Amendment T-78-86. Mr. Davis reviewed with the Mayor and Council, comments from the Planning Commission to the Mayor and Council in a memorandum dated September 4, 1986. The memorandum included information on the City's maximum expansion limits, proposed Text Amendment T-78-86, and the Fortune Parc tract. Councilman Coyle asked that the Mayor and Council consider a neighborhood impact statement in the amendment in addition to a standard methodology for traffic impact. His concern was to provide a tax base versus quality of life model for considering tracts that would be developed under the Text Amendment. Councilman Duncan concurred with Councilman Coyle, stating that such a statement would allow for the input of neighborhood into the development process. Mr. Davis advised the Mayor and Council that the concept plan proposal clearly allows for neighborhood impact, referencing section 5-715 of the Master Plan and noted that the Mayor and Council must provide for neighborhood input anyway.

Councilman Abrams stated that he felt the question being raised was if the process is a one stage or a two stage process. If it is a one stage process, then criteria must be set forth. If it is a two stage process, then initial concerns would be set forth in the Master Plan stage and refined in the Concept Plan stage. In addition, he asked where the quality of life analysis

should be done. In response, Mike Davis stated he felt the quality of life analysis should be done in both the Master Plan and the Concept Plan processes. He further stated that if the Master Plan did not exist as a backdrop, the City may want a comprehensive Master Plan review. Councilman Abrams noted that the four or five parcels in the City's maximum expansion limits, which could be developed, were of different sizes and might require a different type of review. In response to a question from Councilman Hartogensis, Mr. Davis stated he feels the adoption of Text Amendment T-78-86 would not significantly impact the Westmont proposal as it existed today. Councilman Duncan stated his support for recommendations made by the Planning Commission. In addition, he suggested adding section 5-106 and section 5-715G. He also requested that language be included that would give neighborhoods an opportunity other than a public hearing to provide comment on the proposed development. Mr. Davis suggested that a mandatory referral process to all recognized contiguous neighborhood associations be included and that the applicant must try to present their proposed development to the association.

City Manager Robinson stated that he has used such a process before. However, City staff was present at each of the briefings. He stated that there is generally a thirty (30) day comment period allowed and that the comments become part of the record and that the neighborhood input is provided both before the public hearing and before the Concept Plan is taken to the Mayor and Council.

Councilman Abrams asked that the neighborhood referral require referral to all neighborhood associations within the City and outside the City. In addition, he asked for clarification on the housing requirement to which Mr. Davis responded that the housing component was purely voluntary on the part of the developer. A .25 FAR would be allowed without a housing component and up

to a .75 FAR would be allowed with a housing component. He further added that the zone allowed for in T-78-86 would not automatically rezone existing I-3 property to O-3 property. Instead, the property owner would need to apply for rezoning to O-3 in order to develop under the proposed Text Amendment.

Councilman Coyle asked, in granting to the developer additional density from the .25 FAR up to .75 FAR if the Mayor and Council could require a housing component at a certain percentage as a condition of approval. Mr. Davis responded that this could certainly be done on a case-by-case basis, referencing language in the proposed text amendment that states that just because a developer meets all requirements of the zoning code, approval by the Mayor and Council for the development is not guaranteed.

Councilman Abrams queried staff regarding options available to the Mayor and Council under different annexation circumstances, stating that he does not want to limit the opportunities for the public to comment. Councilman Hartogensis noted that the Mayor and Council makes findings anyway and suggested clustering the findings into a consolidated package called "Neighborhood Impact Statement". Councilman Duncan stated that he was not sure how to provide such a package without talking about the whole plan itself. Mr. Robinson agreed, stating that there are plan standards stated in the Master Plans and this supplements the neighborhood input process. Mr. Davis added that a great deal of neighborhood impact information is requested in the application anyway, such as building site lines. Councilman Duncan noted that it is the application that would be referred to the neighborhood for comments. Mayor Van Grack summarized that the City does have a neighborhood impact statement already.

In response to several questions by Councilman Abrams, Mr. Davis advised that the determination of maximum height for buildings is negotiable by the



Mayor and Council. However, minimum heights for structure parking is not waivable by the Mayor and Council.

Based upon the discussion, Councilman Duncan suggested that staff draft language that reflected his suggestions regarding the Planning Commission's recommendations. A mandatory referral process, raising the FAR to .75 and keeping the housing component in the text amendment.

Mr. Davis advised the Mayor and Council that the Fortune Parc hearing before the County is scheduled for October 15, 1986, and that the City will request an opportunity to testify at that hearing. However, he noted that there is a delay expected in holding the hearing on October 15.

In response to a question from City Manager Robinson, Mr. Glasgow advised the Mayor and Council that the changes to the text amendment which they requested would not necessitate holding another public hearing as the changes did not represent significant changes to the text amendment that was advertised for public hearing.

Councilman Hartogensis stated that he feels that many of the changes in the proposed text amendment under consideration by the Mayor and Council that evening were in response to testimony received at the public hearing. Councilman Coyle advised the Mayor and Council that he still has reservations about the text amendment and restated his desire for a mandatory housing component and his concern that .75 FAR is too great.

Re: Adjournment

There being no further business to come before the Mayor and Council in work session, the meeting was adjourned at 11:35 p.m. to convene again on Monday, September 15, 1986, at 8:00 p.m., or at the call of the Mayor.